



CALIFORNIA VETERANS BOARD
GENERAL SESSION MEETING #658
Friday, December 5, 2003 – 9 A.M
Veterans Home of Yountville, Yountville CA



GENERAL SESSION:

The California Veterans Board (CVB) monthly public meeting was called to order at 9 A.M. Board members present included Chairman George Sinopoli (Fresno), Vice Chairman Edward Feldman (Westlake Village), Members Jerry Basconcillo (Delano), Leo Burke (Stockton), and Judy Gaze (San Diego), Larry Lattman (Yountville) and William Shadish (Redding).

David Grafft led the invocation. Pete Peterson led the Pledge of Allegiance.

Chairman Sinopoli introduced the members of the Board, and CVB Executive Officer Sandra Munoz.

Chairman Sinopoli introduced new board member, William Shadish. William Shadish introduced himself.

Chairman Sinopoli introduced new Interim Secretary Leon Tuttle.

Interim Secretary Leon Tuttle introduced CDVA Staff.

Marcella McCormack, administrator introduced Yountville Veterans Home Staff present.

Chairman Sinopoli opening remarks.

The audience introduced themselves.

MOTION passed to approve minutes from the CVB meetings of October 17, 2003.

REPORT FROM BOARD MEMBERS ON ACTIVITIES FOR NOVEMBER:

Member Judy Gaze attended and honored to be guest speaker for the southern California annual luncheon for women veterans. There were about 200 women veterans in the group. Spoke about the history of woman in the Navy as well as the history of what Veterans Administration both of Federal and State have done to support women over the years. It was well received and was honored to get several requests for copies of the speech. What was exciting was a lot of the anecdotes that were used about women in history the women who were present and who were responsible for the history were in the audience.

Member Larry Lattman attended a special school in Sonoma Valley where children have been taken from their home because of problems in the home. The kids range from 8 to 16. Addressed the group of children about the roll of Veterans and Patriotism. Had a wonderful ceremony at the home. Secondly opened a new recreation room in the Hospital with at that time Secretary Johannessen cut the ribbon. It

will be a great benefit for the members in the hospital who cannot come to the main recreation building because it is too far to come in their wheel chairs. They will have a room know where they can eat and participate. Next year the board should make it on the agenda to meet in that room in the hospital so those in the hospital can participate.

Member Ed Feldman attended Veterans Board meeting in October at Chula Vista San Diego. November attended a Marine Corps birthday celebration at Newport Coast. Reappointed as national surgeon.

Member Jerry Basconcillo attended Veterans Board meeting in October at Chula Vista San Diego and the day before attended a stand down in Bakersfield. November attended the dedication and the Veterans Day celebration in Visalia California Tulare County and dedication of Vietnam Veterans Mural at the Convention Center Visalia California.

Member William Shadish new committee member attended orientation and long discussion with chairman of board in Sacramento. Visited the Yountville hospital at the request of Chairman. Larry Lattman was invaluable in showing every place and was very impressed of the home. Happy to have seen what has been done here at Yountville.

Chairman George Sinopoli announced William Shadish has been instructed to visit Chula Vista and Barstow Veterans Home and make a report.

Vice Chairperson Leo Burke Spoke at three different events on November 11, 2003 and attended the board meeting in Chula Vista.

Chairman George Sinopoli attended Fresno City Counsel pertaining to acquiring land to build a Veterans Home in Fresno for CDVA. We got everyone's vote except for one counsel member but it has been accomplished. The land has been granted to CDVA for a Veterans Home. Meet with the City and County to move the land that we have from county to city and it was not an easy task. Attended meeting after meeting, sometimes attended twice or three times in one day. Spoke at Porterville California on a Veterans Day Memorial Service. Attended a DAV meeting. Sacramento to talk with new board member and to go over seven page plan that was sent to all board members. Need help from current board members to help indoctrinate and train new board members what their jobs are and what their duties will consist of. Requested Dr. Shadish to spend one or two days Sacramento and set with each department heads to find out what each department is doing as soon as possible.

Interim Secretary Leon Tuttle greeted the board and assured the board that the governor regards veterans very highly and we will move ahead. Tenth day on the job and will not elaborate too much on what don't know about things at the current time. The major crisis that the state faces is a budget one and that is where a lot of effort is being devoted on but no decisions have been made in that respect. Hopes to continue relationship in the future with the board.

Vice-Chairman Leo Burke questioned the Secretary "What is the status of the cemetery in Northern California from the department's view"?

Interim Secretary Leon Tuttle "There has been no reason that you have under took that I can say with assurance. Nothing has stopped; no decisions have been made in any respect. That is where things are at".

Vice-Chairman Leo Burke "what is the status of our new veterans homes"?

Interim Secretary Leon Tuttle "same applies".

Chairperson George Sinopoli expressed gratitude to the Secretary for the 10-day report. Assured the Interim Secretary that the board will work with the Department of Veterans Affairs and with the Secretary. Commented before the budget cuts the board use to have two-day meetings and to cut it down to one day in hoping we could get it done on a Friday morning. In order to serve the veteran the board is hoping to extend those hours. The board is trying very hard to keep the budget cost down.

REPORTS:

(Status of CDVA Division / Select Cal Vet Board (CVB) Committees / Special)

VETERANS HOMES OF CALIFORNIA, CDVA DIVISION: Marcella McCormack, administrator Yountville Veterans Home commented on Census as of 24 hours was 1077. The census was down due to extreme number of deaths but pushing the census up. There has been admitting 15 last month 20 this month, 20 the next month and 15 the next month. Happy to announce that the completion of the VA survey with no deficiencies at all in the nursing department and minor deficiencies in the food service for things such as left overs not dated for three weeks and for other things that can be taken care of right away. Have received clearance for acute care survey from DHS, long-term care from DHS survey and VA survey, which are finished for the year. Very active department that provides activities for the members and today some are on a bus where we have take them to plays at a local opera house and have been to baseball games with the belief of healthy minds and healthy souls and continue to move along. In the last 6 months received substantial donations. Anonymous donation from the Stockton area in the amount of \$300,000 and recently received a \$680,000 donation from another anonymous person who simply stated, "Take care of the vets". We are actively looking to take those donations and continue to improve the lives of the veterans. The reputation of Yountville as Dr. Shadish has stated for medical care and care for the veterans is well respected in the community. Received yesterday another donation in the amount of \$2,125.00 from the American Legion Auxiliary women to support the Library over the new hospital recreation area. They have always wanted to do something for Yountville and we are very happy they did this for a special donation.

Members Edward Feldman requested to go over the disposition of the monies and who controls the disposition of the monies.

Marcella McCormack first there is an instruction that sets forth who is on the donations committee and the roll of the donations committee role is. The donations committee puts together a list of what they think is in the best interest for the home members and recommends to Marcella what they thinks should be done with those donations. There is a standardized procedure to utilize donations at the home. It is a group effort from all areas that contribute ideas and reviews ideas that make a decision.

Member Ed Feldman aware that there is a need for purchasing imaging equipment. Dr. Feldman offered that he would like to offer his services so that Yountville will get the best deal, and he knows of folks who can lend knowledge to this area that can be useful.

Marcella McCormack the idea came up from the membership who would like imaging equipment. The members themselves want this use as part of the donation funds. The member's views point of what should be done with the use of the donations fund is important in what is done here at the home. Larry Lattman, Bob Anderson and Dr. Dave Salopeck were congratulated in moving that forward and the paper work are being finished up.

Joe Maguire, Deputy Chief Counsel cited Military and Veterans Code 1039.3. Post Fund 1047. Donations other than the post fund.

VETERANS HOME COMMITTEE, CVB Member Larry Lattman reported activities in Yountville after the election, the short fall on the budget, the changes in Sacramento when people in Sacramento drop a little pebble in the water by the time it reaches the home it becomes a tiddle wave and the veterans at the home become concerned and get confused or worried. We assure them that everything will work out just fine and fortunately the administrator communicates and is able to communicate directly with the members and she does a wonderful job in doing just that. The concern is the flu season has come upon us and we checked with the administrator, she has assured us that the hospital facility would be ready to expand to the degree if we get a bad case of the flu through the home. Suggested to check with the other homes two homes to see what they are doing in case a big outbreak of flu.

Member William Shadish M.D. there is some need for imaging equipment and x-ray tables. We need to address this and make sure that this is followed through. Recommended Larry Lattman's ideas regarding opening more beds at hospital if flu epidemic occurs we want to be prepared for that.

Member Judy Gaze recommends the need to go back to Barstow for the next board meeting. Questioned on the status of how are things going on out in Barstow. There has been a change in administrator's and is concerned with the current status of the home.

Member William Shadish, M.D. reported that he is new to the board but will be visiting Barstow and Chula in the very near future.

Chairman, George Sinopoli requested Interim Secretary for his remarks.

Interim Secretary Leon Tuttle reported that this he has not been to Barstow yet. Things are unsettled down there. There are staff who are willing to work with you even if things are unsettled. Suggested to leave that decision up to the board.

Member Judy Gaze would like to know a head of time of current issues of what has been going on out in Barstow before the board meets.

Member Larry Lattman if things happen in Barstow they contact Larry right away and will provide names of people in Barstow to contact prior to meeting in Barstow.

FARM AND HOME PURCHASES, CDVA DIVISION – Judy Gaze. Reported on the lost of homes in the recent fires 7 total losses in San Diego County with a Value of \$1,504,737.00, all in San Diego County, 18 partial losses damage. 13 claims from San Bernardino County and 5 in San Diego County. 23 claims for additional living expenses for veterans who were forced to evacuate their homes. Site visits by GAB adjustors have been made on all total losses and 10 of the partial losses. Don Christianson participated helped set up help centers for families who lost their homes. Cal Vet Loans are now tied to FannieMae released dollar amount which have increased to \$333,700. Increased of \$11,000 over 2003. Cal Vet farm loan have increased to \$500,550. During the Months of October and November, 2003 Farm and Home funded 383 loans totaling \$84.4 million. Of that number, 33% per processed through the Internet. Over all loan activity have declined since the peak in August. The average processing time is 27 days. Interest rates have remained the same.

Jerry Jones, Farm and Home: Jay Vargas former Veterans Affairs Secretary lost his home in the San Diego fire, included in that fire was his Medal of Honor.

Veterans Services-Jerry Basconcillo: no activity at this time except attempted to talk to veteran's organization in helping veterans who need help through out the state and recommends veterans service officers and veteran organizations.

Contracts-Jerry Basconcillo: no activity at this time.

Policy and Procedures-Leo Burke: The Napa Valley Register “State Ignores Veterans Homes, Investigate State Veterans Affairs Agency” stated “knowing Secretary Tuttle from before I know he is on top of this and we hope he will report to the board as things progress”. No comment from Interim Secretary. “George Sinopoli is currently working on the training manual.”

George Sinopoli, chairman: need input from board members or staff pertaining to the training manual for new board members. New board members will sit with department heads and be instructed.

Judy Gaze-Member: Include budgeting and training.

Policy and Procedures-Leo Burke: read from his notes the following, “Review of Policy on California Veterans Board Officers and Organization As Apparently Proposed by Board Member Edward M. Feldman, we salute his efforts. As you requested, I have reviewed the statement “Policy – Cal Vet Board Officers and Organization” as set forth on Page 1 of Dr. Feldman’s letterhead dated September 19, 2003, which you faxed to me on September 22, 2003. As of now, I have also received by mail Sandra our Executive Officer a package containing your transmittal letter of September 23, pages 1 and 2 of Dr. Feldman’s letter, and three pages from Julie Hom. The statement referred to in the first sentence of this paragraph appears to be a proposed policy on the subject, and reads as follows: Policy – Cal Vet Board Officers and Organization. “Chairperson – shall be elected by board members and serve at the pleasure of the board. The term of officer shall be one year. The chairperson may serve a second term of the office if re-elected by the board. Vice Chair – The chairperson shall appoint with the agreement of the fellow board members. Job Descriptions – The chair will reside over the Cal Vet Board meetings. The chair will execute documents on behalf and with agreement of the board members. Reminder all board members are direct gubernatorial appointees.”

Inasmuch as the subject matter deals with the internal operations and workings of the Board, my first thought is that it may not be appropriate or necessary for adoption as a policy. The Board’s statutory charge is to “determine the policies for all operations of the department.” California Military and Veterans Code 72. Therefore, it might be more appropriate to limit the policies adopted by the Board to those dealing with the operations of the Department of Veterans Affairs, and to use some other method, such as an internal operations manual, to prescribe or publish matters relating to the Board’s own operations and procedures.

As to the content of the statement, the first paragraph as it correctly observes is already covered by statute and is therefore unnecessary. The applicable statute provides: “The members of the board shall select one of their members to serve as chairperson, who shall hold office as chairperson at the pleasure of the board.” California Military and Veterans Code 71 (a).

The second or sub-paragraph of the statement appears to be intended to limit the term of office of the Chairperson to no more than two one-year terms. This would be contrary to the provision of the statute that the chairperson shall hold office as chairperson at the pleasure of the board. This means that the chairperson may serve in that capacity for as long a time or as short a time as a majority of the board members may determine in each individual case. Again, the subject is covered by statute; the statutory provision in and of itself limits the term, and nothing more need be said. Furthermore, an administrative agency such as the Board has no authority or power to amend or modify a statute, nor to enlarge or limit a power conferred upon it by statute.

The third paragraph provides for appointment of a Vice Chair by the Chairperson with the agreement of the fellow board members. The statute is silent on the selection or appointment of a Vice Chair, and the Board has inherent power to establish such a position and prescribe a method for selection or appointment. However, as written, the third paragraph would appear to require unanimous agreement or consent. Historically, in accord with our democratic principles, the Board as well as other similar

multiple-member bodies has conducted its business on the basis of a majority vote. A requirement of unanimous consent would, in effect, give any one board member a veto power, and could result in the Board being unable to reach a decision.

The fourth paragraph, headed "Job Description" provides that the Chairperson will preside over the Board meetings, I am assuming that the word "reside" in the paragraph is a typographical error, and that it was intended to be "preside", and execute document on behalf and with agreement of the board members. The heading of this paragraph suggests that it may be intended, at least in part, to adopt a recommendation of the Deputy Inspector General in her E-Mail message of July 17, 2003, addressed to Earl Steck and Ed Feldman, wherein she said "Recommend that the Board initiate Duty Statements for each Board Member."

With regard to this recommendation, it seems to me that developing a duty statement or job description for each "Board Member" would be impossible or, at best, impractical. All board members, as individuals appointed by the Governor, have the same duties, namely, to serve on the Board and participate in its deliberations. However, the Board has specific positions to which board members may be elected or appointed by the Board, such as Chair, Vice Chair, and Committee Chairs and duty statements or job descriptions for these positions might be helpful. Perhaps this is what the Deputy Inspector General intended.

The duty of the Chairperson to preside over Board meetings is inherent in the position, and may but need not be separately stated. As written, the duty of the Chairperson to "execute documents on behalf and with agreement of the board members" may be too broad and non-specific to be of any real help.

If the intent here is to delegate authority to the Chairperson to execute or sign certain documents on behalf on the Board, then that intent should be stated, the documents or types of documents should be identified as specifically as possible, and the circumstances or conditions under which the authority is to be exercised should be prescribed. Again, as written, this provision would appear to require unanimous agreement, and the same problems are present as discussed above with respect to appointment of a Vice Chair.

With regard to the "Reminder" contained in the fifth and last paragraph, the statement in and of itself is correct but I am unable to ascertain its intent or purpose, or its relevance to the other matters covered by the proposed policy. The applicable statute provides, "The California Veterans Board shall consist of seven members who shall be appointed by the Governor subject to the confirmation of the Senate." California Military and Veterans Code 65. Therefore, the fact that Board Members are appointed by the Governor is already covered by statute, and nothing more need be said."

Edward Feldman-Member: request a copy of Leo Burkes notes. Reason for request unable to respond to analysis and have not seen the analysis prior to the meeting.

Policy and Procedures - Leo Burke: Leo Burke would gladly give copy of his notes to Ed Feldman and thanked Ed Feldman for assisting in submitting material to the committee chair for the meeting and we again need independent council so we can proceed. Apologized for not mentioning that Dr. William Shadish M.D. who is also on Policy and Procedures Committee. Leo Burke read from his notes the following "Supplemental Message If Any as requested in the November 17 Fax from Sandra Munoz, I have reviewed this proposed policy. The proposal consisting of five pages transmitted by Dr. Feldman on November 10, would create a "Peer Review Policy", apparently limited at this time to the Skilled Nursing Facility at the Veterans Home(s). In his Fax Transmittal, Dr. Feldman said that the proposed policy could "use some fine tuning." I agree.

The first question that comes to mind is whether such a detailed and specific policy or procedure for peer review is appropriate for adoption by the Board. As we know, although the courts have said that the line of responsibility between policy-making and administration cannot always be precisely defined, policy making has been defined as establishing the general principles by which government is guided in its management of public affairs, and as involving the creation of guidelines, goals, objectives, etc. See California State Auditor Report 2002-120 page 11. Therefore, it might be more appropriate for the Board

to adopt a more general policy requiring the Department to establish peer review procedures for the medical staff at the Veterans Home(s) and setting guidelines, goals, or objectives for such procedures, but leaving the details or specifics of such procedures to be developed by the Department, subject to review and approval by the Board.

In any case, after researching the law on the subject, one of the first things I would want to do would be to determine whether the Veterans Home(s) already had some sort of peer review process in place. Then, I would want to check with licensing agencies, hospital associations, and perhaps hospitals including the VA to determine whether approved, model, or recommended peer review policies and procedures might be available. If so, we should consider them in evaluating any procedures the Veterans Homes(s) may already have or in developing our own procedures, and doing so might also help to keep us from reinventing the wheel. Other questions, which come to mind, are how and to what extent we should consider such a policy for other parts of the medical staff as well.

Finally, not only because of its importance to the quality of care for our veterans, but also because of its potential effects on the jobs and careers of the medical staff, a peer review policy and procedure should be developed carefully so as to promote the highest possible quality of care while at the same time maintaining the highest possible protection of the rights of the medicals staff, with emphasis on both procedural and substantive due process.

I would recommend that this proposed policy be given further study with a view toward the fine-tuning suggested by Dr. Feldman.”

Recognition And Award – George Sinopoli: a plaque has been ordered for National Commander of American Legion, John Brieden III from Texas for a visit he will make to Central California.

Legislation – Leo Burke: there is no money available no need to expect anything from the State from incoming legislative year. We do expect Veterans to come together and work for what we can get for the Veterans. Veterans Legislation has been addressed in the previous legislative sessions possibly excluding legislation directed towards specific less persuasive problems. The 2003 – 2004 veterans legislation two year bills which may be concerned in this years’ legislative agenda. This includes both pending senate and assembly bills. These have to get out of the House by January 31, 2004 or they will die. The last day to get these bills to the California Legislature is February 20, 2004.

Appeals – George Sinopoli: Dr. Shadish has been instructed to travel to Chula Vista and meet the appellant. Farm and Home Appellant given to Judy Gaze, Member.

Judy Gaze – Member: Appellant has asked the board for help concerning the Cal Vet Loan that he procured in 1981. He believed that the loan term should have expired by now. The history of the Cal Vet Loan Program in the early 80’s was explained. The interest rates in the market were going up. The Cal Vet Loan program existing at that time did not have a frozen interest rate. The interest rate floated. There was a law at that time that gave the veteran (loan holder) some choices. Jerry Jones was asked to come forward to educate the board of this process so the board could understand the basis of the appellant’s complaint so the board can make a good judgment on this appeal.

Jerry Jones – Farm & Home: in 1981 this veteran obtained his loan with Cal Vet. Shortly after, approximately eight months later, the California Veterans Board and the Department of Veterans Affairs increased the interest rate from 6.85% to 8%. At that time State Law stated that a veteran could make a choice to have the loan term extended and keep his monthly installment the same so the department provided in the month of November 1981 and December 1981 monthly billing statements along with inserts. Those inserts explained the options that were available for the veteran. The veteran loan holder would complete the insert and fill in the contract number, sign and date it and send it back in. The interest rate increase would take effect in February 1982. The department was required to give loan holders 90 days notice. At that time there were approximately 57,000 loans. We prepared computerized

print outs that we maintained in headquarters and district offices so if the veteran wanted to know what it meant to have their loan term extended or to have their loan term remain the same, how much their installment would have to be increased or how much longer their loan term would have to be. The department provided this information along with a toll free telephone number for any questions a veteran (loan holder) might have concerning this program. During the period between November 1, 1981 and January 10, 1982 received approximately 26,000 inserts back from veteran loan holders. When received entered into the computerized system and date stamped the master printout for headquarters file. That October 28, 1981 report can be provided to the board. This does show Farm and Home did receive an insert completed by the appellant. When the inserts were received they were batched in groups of 100. A batch card was attached and sent to a key data unit-processing center. Processed by double blind entry. Entered twice into a blank screen by two key data personnel. The error rate by double blind entry is less than one tenth of one percent. The subsequent report does support that the appellant received an insert. Lastly, in order for the transaction to take effect, the name, contract number etc from the insert had to match the information from the master report. December 17, 1981 was date entered into the computer. The appellant was basically asking that his installment remain the same and his loan term be extended. The law states a loan term could not be extended beyond 40 years and the appellant's loan was slightly increased in 1982 so that the loan term would not go beyond 40 years. The problem with this was sometime in 1998 and 1999 those batch slips were destroyed by someone in headquarters. The appellant does not recall sending in that insert in 1981. The fact remains that the insert was received and processed. The expectation of having the loan paid off within 25 years is not reality. Jerry Jones was in charge of this process in 1981.

George Sinopoli – Appeals: questioned Jerry Jones on what the difference on the payment.

Jerry Jones – Farm and Home: answered the follow: at the time of interest rate changed the installment payment was 6.85% payment \$537.00. Rose to \$544.00 in order to meet the 40-year term limit effect March 1, 1982. If the insert were not received his payment would have been \$580.00.

Judy Gaze – Member: appellant's loan was expecting loan to be paid off in 2006 but will not be paid off until 14 years later, in which appellant is very concerned. He alleges he never signed anything and is requesting that the loan difference be forgiven. Forgive 14 years worth of payment. Research was done on history of past appeals similar to this case. There were similar case same allegations same request in December 2001 located in the executive officer's office. The board at that time did not uphold the appeal. The appellant should have noticed the dollar amount not going down through out the years. The board should not forgive the amount of loan whereas it would not be fair to the rest of the veterans who did this in good faith are currently paying off their loans. Secondly, the board should be consistent whereas in the past an appeal was turned down for the same case. The board should not reverse it self and uphold the appeal. Motion that the board deny the appellant appeal. The Motion was seconded. Motion passed. Executive Officer called the roll.

Judy Gaze – Member: requested for Jerry Jones to speak on the update of HR 1742.

Jerry Jones – Farm and Home: the bill is before the U.S. Congress to extend the benefit mortgage bond financing for the best interest rates to veterans who served since 1977. The primary purpose of HR1742 is to remove the limitation of "at some time before January 1, 1977", so we best serve veterans who served in active duty in various conflicts after January 1977. This is the fourth attempt in getting legislation before Congress. The bill is currently in Congress and has not had a hearing yet. Trying to get all of California Members of Congress to be co-sponsors, we have 36 out of 53. Congressman Thomas Herger, Chairman of the House of Ways and Means is attempting to consider if the amount of bonds from 522 bonds each year were cut in half. The trade off would be able to serve more Veterans for a longer period of time because currently the bond money will run out. Another restriction is separation

from active duty for more than 30 years and who has not served in a conflict before to 1977. Every Friday there is a conference call made which all the other four states that have similar programs are working in concert to get this passed.

Judy Gaze – Member: the cost of housing and the loan amounts that the loan amounts that are much higher than was made since 1977 will not benefit the Veteran but anything is good.

POW – Ed Feldman and William Shadish: no report.

Homeless Veterans – Larry Lattman: no report.

Legal – Deputy Joe Maguire: reported during the past month there were a total of 118 cases that were in progress. Several months ago there was a case that legal had since 1996, a class action suit that has recently been dismissed in which John Jackson from headquarters who handled that case. There are no defeats to report. Everything is going well.

Julie Hom – Deputy Inspector General: Farm and Home Loan Program currently auditing and will complete shortly, report should be available at next board meeting. Started Merced and San Diego CVSO Audits. Issued Annual Reports for the last two fiscal years because they were held up in the prior administration's office for approval and have issued without the approval.

George Sinopoli – Chairman: Request for any comment from Interim Secretary Leon Tuttle.

Interim Secretary Leon Tuttle: "No comment."

PUBLIC COMMENT

Tom Sarbeck: Read from handout, dated November 21, 2003 to Allied Council. Subject for Administrative Remedy. First written in the summer 1997. The text reads, "Conduct that seriously disturbs the routine and tranquility of the Home or well-being of other residents." The Supporting case or law and its application read, "In a United States Supreme Court case known as Coates vs. Cincinnati, the Court held a law unconstitutional for reasons of vagueness—for not identifying the prohibited behavior and not telling people the behavior is prohibited." Mr. Sarbeck has requested the board to submit to legal department to have this provision is revealed and to rely on existing law, which is spelled out in the code of conduct. Second request involves a first amendment issue, particularly reads, "Using foul, profane, violent, abusive language or language degrading by nature or willfully provoking, insulting, or harassing...." Request a provision added which reads, "A term such as "violent language" on condition that words are added to make clear that the prohibition applies only "fighting words" which the United States Supreme Court has said are not protected by the First Amendment. Supporting case in the 1970's in the Village of Skokie, Illinois. Request the law office to review the provision.

K. Maurice Johannessen, Senator (Ret): Stated the following, "Thought perhaps it was a good time to give a report to the home members and to the board to bring up to a closing as far as my administration is concerned and where we started, where we were headed and what is in the planning with the five year plan. I am a businessman and I plan far ahead. You may not see results immediately but the results would last many, many years. Please understand that I have served the veteran causes now for more than over a half a century so it gives me a little bit of a opportunity to a perspective of what we've done. One of things by the way is bothersome, some of you perhaps received a copy of a article letter written by Joanne Fox alleges we have done great damage to the Veterans Home and she also mentioned about contract physicians that were not paid. I cannot answer from prior administration but I can tell you this that all consultants were paid, perhaps Mr. Tuttle could assist in this, it could have been due to protracted

budget problems. Sometimes the budget will not be approved 60, 90 or 120 days. When that happens no authority but the Finance Department allows paying bills. So therefore, no one gets paid. So in a sense if that is what she is referring to is quite bogus.

Also, in the investigation into the department that we have ignored the Business and Professional Code of Law governing hospitals and medical staffs. That is not true, matter of fact approximately 30 days ago we finalized all the relationships and have all been signed. We did this in order to better serve the veterans. We could not have a group of people who think they run the hospital or the department. That has already been put in place. I am sorry to say that the Napa editor did not get in contact to get the facts straight. All of this has been sent to the transition committee even though I have a hunch it has fallen in a deep black hole somewhere.

One of the things that you may have noticed in the Capitol Weekly, they claim we have 2,129 employees and we hired 562. The fact is when I started in my administration we had total 1,953 employees and after the Governor required cuts; as of two weeks ago we had 1,573. In essence we had cut out close to 500 positions total, not only people but vacant positions that were authorized. There is an additional approximately 50 people who will be given notice. They will probably be given this notice sometime in January and they will be discharged as of April 2004. We have complied with every request and I have to say there is nothing wrong, there is no service that is being curtailed and there is no harm being done to veterans in any way. These are some of the things that are being done.

When I took this job and as I said I don't need a job, it's my love for the veterans that I do this and I will continue. I have been offered by state wide and national veterans organization in which they would like me to take on a position. I am sure in the future I will be coming before the board and talk to you about that. One of things that I have found when I took this job there was a lot of nepotism within the department. They were hiring wives using their madden names for example. There were people put in places as legislative purpose for the salary that it brought. In short, it was not a functioning department; it was not run as a business department and what we are forgetting this is big business. When you run 1,500 to 2,000 employees when you have three homes including this beautiful facility. I can tell you and a matter of fact I will talk to anyone of you regarding any of these issues. I have left with Ms. Munoz the numbers that I can be reached. The numbers that I have left with Ms. Munoz go directly into my cooperate office.

The basic problem that the department has found it self in, this is something that has to be corrected. The people in this department are great people, they want to do a good job but they are not allowed to do it because of the rapid turn over of Management. They finally had an opportunity to have management, which they could depend on but because of politics it quit didn't work out that way. So things basically some have called me and asked what do we do now? I answered them by saying you have the five year plan which you have been given, we worked on it, we did it, work with it and if you have any problems go to the board. Let them sort it out.

When you run a business, especially a business like this one. It is multifaceted, I'm intrigued by it, as you well know, I loved it, because it was a challenge which I haven't had for quite a few years. This is by the way is my third or fourth retirement but none-the-less, I am too old to quit. The challenge to this was extraordinary, but it fit into the things I have been doing. I have developed, I have built and I have hired a lot of people and I also had the back bone to fire some who didn't do their job and that is some of the things that ought to be done to some of these people who are involved in this organization as well. I do a lot of speaking through out California, not only for veterans but other groups as well. You are looking at a organization, like I said you have three homes, one has a hospital all though you can't really call it a hospital anymore it's a glorified clinic because they have not been able to have the funding available to purchase the necessary equipment to make it a hospital. The contract agreements for out side hospitals that can afford this equipment must continue to make it available, because the veterans deserve the best. If we can't provide it financially then issue the contracts for outside hospitals and by the way I have personally signed those contracts.

If you operate a financial institution with a higher budget than most banks, and having an institution with a portfolio of somewhere between 2.6 to 2.7 billion dollars and 800 plus million dollars in reserves,

show me banks that have more than that. This is a very interesting kind of a business. We are also on the works on building five new veterans homes and I had long talks with Principi, which is the Secretary for the Federal VA, he is on board. I am keeping him posted, I won't fade away, and I will keep him posted. The land now has all been acquired. We have the MOU, Memorandum of Understanding in West LA taken care of. In order for the acquisition an environmental study needs to be made and there should not be any problems with that. The funding for these homes have been put in place, two bills, one I helped get through which was \$50 million which goes to the building of Saticoy, Lancaster, and West Los Angeles. Those are scheduled if we stay on the course. My staff could have done that and I hope they will continue Mr. Secretary. The first home will be opened sometime later of 2006 and that is Lancaster and at the same time Saticoy will be built. We will also be in construction with the home in West Los Angeles. That is a multi-story home, which of course will take more time to construct. We already have the land secured in Fresno and Redding; the bill that I carried through was for 62 million dollars. That was 35 percent short that the State now has, the remainder of the funds are guaranteed depending on the Federal Budget. It is on line to be done, I have signed all the paper work that I can recall coming through on that issue. If the plan is followed through these two homes should be done by 2008. To do these kinds of things you have to cut corners and you have to move and you have to make decisions. In government and especially in bureaucracy no body wanted to make a decision because they could be wrong, they could lose their job. That is one thing that is needed in government, you have got to be able to make decisions and take risk. You cannot move the boat unless you make some waves; I've made enough of them.

If we follow the Five-Year plan, we will have a product that the veterans can be very, very proud of. In the 62 million dollar bond that I put through it also kicked in somewhere in the amount of 15 million dollar renovation for Yountville. We are on the road to do that, and quit frankly one of the most exciting things I am looking forward to, is the wine tasting party when we get to TGIF put together on the grounds here because I want veterans to come here and live, remember I told you that earlier, do it!

Another problem we need to deal with is with in any organization there is a tremendous resistance to change. And we have moved fast and had a resistance to change. We have perhaps three or four people within our organization that if were in my company would have perhaps have lasted 10 seconds, been fired. This is government so it takes longer than that. We also have people specially in two Veterans Organization, which I think we need to get some closure. One is the organization which I will not name because it is not necessary in public, came to my office when I took office, demanded that I will have to fire some of the top people so they can get the jobs. One of them had the audacity to tell me that there were too many white faces in that building. Needless to say they have never come to my doorstep again. They are still out there functioning and working and if anyone one wants to call me and find out whom they are I will give you the name of the organization.

Also we have had a problem with John Lowe here, which is with the Veterans of Foreign Wars. We meet, there has been a lot of false information brought out that ought not to have been done that way. I can guarantee that the information you can get if you are looking for it or you can get it from the new Secretary perhaps. It is available and I left everything in order to make the transition palatable and helpful in fact I had offered to work the next 60 days. The articles that came out and written by John Lowe was information that was absolutely false but could have been corrected if they had taken the time to call the leadership did not! To me that is about as close to dishonorable and lying that I can think of, I want to do this publicly so it is a matter of record. I have asked to have a meeting twice or three times with the Commander of the VFW each time he didn't have time, fine, that is their option. I had a meeting and spoke before the veterans in Reno at their convention very well received and I had a meeting with a lot of the leadership. I gave them copies of this and they were horrified about the situation. The agreement was without the authority of the leadership these types of letters would not come out but it happened again. This time I had a meeting in Reno with the leadership again and they assured me that these things would be taken care of as soon as possible, because it is important that veterans stay together. We cannot afford to have this kind of thing going on. I implore John Lowe that as long as he has the position that he has to call the department heads or the top people in the department and get the

right information. Do not write letters or put it in the newspaper saying from unknown sources and cannot be identified. No body should do these kinds of things.

So where are we on some of the items we are doing, Yountville, wonderful, I love it here, it is working well. Chula Vista, we have changed the management in Chula and it is working well. We have been working on the computerization system, which after the oracle problem I had to do some thrusting to get that started. That allowed us to better track everything including medications. We also finished up the last pods and they are fully operational within the 400 beds. Barstow, we completed the transition according to the plan to fill in not a Skilled Nursing Facility but something that is less critical. The fact is, it is working very well and that was started after January 2003. A matter of fact, Dan Walters after working in the Senate for nine years told me you got to be out of your mind taking on something like this. I told him give me 6 months; he said you couldn't do that in 6 years.

I am thankful to the chairman for letting me go on for a little bit. We have available to you the Six-month report I gave to the Governor, a confidential report. We also have a confidential report regarding the Farm and Home loan program. All those things are there and for the Secretary to have some reading material. The point being it is going forward if we stick to the five-year plan that was established by the good people who worked on it. These people worked good together it was a good team and I thank you Mr. Chairman, I don't want to take much more of your time. Thank you very much."

NEW BUSINESS/AGENDA ITEMS

George Sinopoli, Chairman: Announced that Mr. Burke has asked for a period of New Business.

Leo Burke, Vice Chairman: "Thank you Mr. Chairman, everyone knows we have had a change in new administration and the board has a lot on their plate, appeals, farm and home, independent counsel, etc. etc. because of this I would like to move that we go on record to give our chairman a vote of confidence and I so move. Seconded by William Shadish.

Judy Gaze – Member: Questioned what was the motion?

George Sinopoli, Chairman: "Motion was made that this board consider a vote of confidence for the chairman and it was motioned and seconded, any discussion? Hearing none, Executive Officer calls the roll." Jerry Basconcillo, I. Leo Burke, I. Judy Gaze, abstain. Larry Lattman, I. William Shadish, I. Ed Feldman, abstain. George Sinopoli, I. Motion passed, thank you members of the board. At this time we have had a request for a closed session for board members only Interim Secretary has requested for a closed session. Meeting is adjourned."

FUTURE MEETING DATES AND LOCATIONS:

All meetings take place on Friday unless notified.

Next board meeting in Sacramento, February 6, 2004.

Yearly schedule is posted on web site: www.cdva.ca.gov/board

CLOSED SESSION (if necessary or required)

The general reason or reasons for a closed session, and the specific statutory authority therefore, are (1) to consider the appointment or employment of a public employee under the authority of Section 11126(a) of the Government Code; and (2) to confer with or receive advice from the Board's legal counsel regarding pending litigation under the authority of Section 11126(E)(2)(A), (2)(B), and (3) of the Government Code.

- There being no further business to discuss the meeting was adjourned at 11 a.m.
- These minutes are only a summary of the proceeding portions are reported here verbatim.

- These minutes are posted to the California Department of Veterans Affairs on-line website at www.cdva.ca.gov/board

ADJOURNED at 11:00 a.m.